REMARKS

In his request for reexamination, Applicant has amended and added claims in an effort to insure that he has properly and fully claimed his invention. Regretfully, Applicant feels that the recent narrow constructions given to patents by the Courts necessitates the amendments and the added claims that are being submitted herewith. Such claims are submitted in light of the Courts' strict construction and narrowing of the doctrine of equivalents, the continued broadening of the doctrine of file wrapper estoppel and the holdings of dedication of unclaimed subject matter. Specifically, Applicant has no intent to abandon or dedicate or otherwise surrender any invention or portion thereof and asks that, in return for his substantial contributions and disclosures to the art, that he be accorded exclusive patent protection to the full extent of his contributions—all in accord with the constitutional purposes of the Patent System.

Moreover, the amendments to the claims are for the sole and singular purposes of complying with formal objections of the Examiner and to broaden the claims. There is no intent to narrow or provide any factual or legal basis for a narrow construction of the Applicant's substantial contributions.

Applicant appreciates the Examiner's finding of the mis-numbering of the claims. The present amendments are believed to fully correct that error. In addition, Applicant appreciates the listing of the additional "formal errors," and in large part, they have been corrected by this amendment.

However, the objection suggesting that "said" should precede "object" in line 6 of claim 13 and line 6 of claim 17 is not consistent with Applicant's invention. For example, it is possible that the prior "object" of line 4 of each claim provides the standard while the "object" of line 6 is a different "object" to be inspected and whose spatial distribution is to be compared with that of line 4. For this reason, Applicant submits that "said" should not be inserted in line 6 of either claim.

The Examiner is advised that claim 24 and its dependent claims have been broadened to by substituting "specific" condition for "desired" condition.

In light of the foregoing amendments, re-examination and reconsideration of the rejections made under 35 U.S.C. § 102 is respectfully requested. A primary basis for this request is the Examiner's interpretation of the Micka patent, No. 3,909,602. That patent teaches the use of a "high cost computer" (Col. 8, lines 3-6, see also Col. 3, line 7) that receives "signals representing many spots of the chips (Col. 3, line 8) from a "photo detector 14" (Col. 3, line 43). A "scanning mirror system" (Col. 3, line 32) is used to move the light from spot to spot on the "test chip 10" from which the signals are generated by the "detector 14." However, in addition to having a test chip, Micka also requires the use of a second ""test signal generator 32" (Col. 3, line 63) which will play back recorded signals "in synchronism with the scanning of the test chip." (Col. 3, lines56-58. Alternatively, Micka would required a second scanning system. (Co. 3, 58-62). The "high cost computer" then compares these signals. See (Col. 8, lines 3-6, see also Col. 3, line 7).

Contrary to the Micka reference, Applicant repeatedly states his avoidance of the high cost of the computer that Micka adopts and teaches. Indeed, instead of a computer, Applicant uses a chip, preferably in the form of a DSP costing ten dollars or less. Rather than a complex "scanning mirror system" that deliver's light directly to a single photo detector <u>to sequentially</u> obtain signals from many points, Applicant uses low cost, fixed lens and a sensor array <u>to simultaneously</u> obtain "electronic data in spatial segments" (See, for example, Claim 1, line 5; Claim 6, line 3). As noted earlier, Applicant uses elements that cannot be found in the Micka reference. For example, Applicant avoids the requirement of a computer and a scanning mirror and adopts elements that may well have been unknown at the time Micka patent issued or its application filed. For example, Micka fails to mention or disclose numerous claimed elements of Applicant's invention, *i.e.* a "processor," a "low cost controller," a "memory," a "sensor array," "logic chip," or "spatial segments."

Applicant respectfully submits that the Examiner's assertion that Micka teaches these unmentioned elements is erroneous. Such simply cannot be found Micka's disclosure. Under these circumstances, where one or more elements of Applicant's claims cannot be found in the prior art, a rejection based on 35 USC § 102 is clear error. *See In re Bond*, 910 F.2d 831, 832, 15 USPQ2d 1566, 1567 (Fed. Cir. 1990); *Gechter, et. al. v. Davidson, et. al*, 116 F.3d 1454 (Fed. Cir. 1997).

Rather than supporting a rejection of Applicant's claimed inventions, Micka compels a conclusion of patentability. Indeed, for more than a quarter of a century, his teaching of a complex, high cost vision system with scanning mirrors has been available, but no one other than the present Applicant has demonstrated the skills and ability to reduce that unit to a simple, high speed, low cost machine vision unit. The rejection on the Micka reference is error. It should be withdrawn.

Similarly, the rejection premised on Masten is also error. The present Applicant is the patentee of the Masten reference, No. 6,919,959. That reference was published on February 28, 2002. The present application claims priority based on a provisional application filed September 6, 2002, some seven months later. The Applicant's prior patent is no statutory bar. Consequently, Applicant's own prior invention is not prior art. As stated by the Courts:

> Absent a statutory bar under 35 USC 102(b), (c), or (d), an applicant's own invention cannot be 'prior art' to him.

In re Fout, 675 F. 2d 197, 300 n.2, 213 USPQ 532, 535 n.2 (CCPA 1982). *See also Reading & Bates Construction Co. v. Baker Energy Resources Corp.*, 748 F.2d 645, 223 USPQ 1168 (Fed. Cir. 1984); *Riverwood International Corporation v. R.A. Jones & Co., Inc.* 324 F.3d 1346, 1355, 66 USPQ 2d 1331. (Fed. Cir. 2003). For this reason alone, the rejection should be withdrawn.

Clearly, there is no valid basis for rejecting Applicant's application for a patent. His low cost, high speed diagnostic apparatus and vision system clearly passes the tests of novelty and non-obviousness. Accordingly, this application should be passed to issue. If, however, the Examiner has

suggestions for greater clarity of the claims, finds additional informal errors, or notes that Applicant has somehow failed to claim the entirety of his invention, a telephone call to that effect would be most appreciated. Alternatively, due notice of allowance is requested.

Respectfully submitted,

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Certificate of Express Mail

I, Dorsey L. Baker, hereby certify that the foregoing Corrected Amendment is being deposited in Express Mail of the United States Postal Service (EQ 110898585 US) properly addressed to Commissioner for Patents, PO Box 1450, Alexandria, Virginia 22313-1450 this 10th day of November, 2006.

Dorsey L. Baker